



The Information
Bureau, Inc.

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Monday, July 11, 2005

URGENT

VIA FAX TRANSMISSION
(615) 741-5015

Chairman Pat Miller
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

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2005 JUL 11 PM 12:53

T.R.A. DOCKET ROOM

Re: **Docket# 05-00152** United Telephone – Southeast
Petition for Declaratory Ruling
Docket# 05-00156 The Information Bureau, Inc.
Request of TIB for a PUC Directive

Honorable Chairman Pat Miller:

On July 11, 2005, TRA have scheduled to discuss the two items listed under Docket# 05-00152 & 05-00156. Since both of these items are regarding the same issue, I am preparing a general outline and response for both of them. TIB's original petition under Docket# 05-00156 has detailed explanation.

On May 22, 2005, TIB filed a "Request for a PUC Directive" and was assigned a Docket# 05-00156. A copy of the petition was faxed to Sprint.

On May 26, 2005, Sprint filed a "Petition for Declaratory Ruling" and was assigned a Docket# 05-00152.

On June 16, 2005, Sprint asked TRA to combine both of these Dockets because they relate to the same.

Background

The problem arises from FCC ruling commonly known as "Triennial Review Order ("TRO"). The entire order is beyond this write up. Basically in April 2004, FCC ruled that ILEC do not need to provide UPE-P products to the CLEC.

The original FCC order was challenged in the United States Court of Appeals, Washing DC, and was reversed. Subsequently a total of three orders were

TIB is:

SBA certified Small Business (8a)
Minority Owned Business
Small Disadvantaged Business
HUB ZONE Certified

CSA Contract No:
GS35F0375M

DoD Case Code:
1KCW8

*Dedicated to serving the
Business Community*

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issued by the FCC and all of them were reversed by the same court. In October 2004, FCC issued another order and it is again challenged in the court. From the previous FCC orders and their reversal by the court, it is very much possible that the court may reverse FCC order again.

In its last order FCC directed ILEC to continue offering UNE-P product for one year at a rate of \$1 above the contractual rate between the ILEC & CLEC.

After FCC issued its first order in April 2004, Sprint increased UNE-P lines charges by 70%. Even though the FCC order was reversed by the court, Sprint has continued to bill TIB on the higher rate. TIB is a small 8A business, located in a Hub Zone, and can not afford such price changes. If Sprint is allowed to charge such high rates for the UNE-P lines, then small companies like TIB will be out of business.

What Sprint is asking TRA?

Sprint says that the FCC order only applies to Voice UNE-P and does not apply to Data UNE-P. When TIB called both FCC & TRA (TN) offices, it was told that FCC has no such distinction. Furthermore FCC attorneys told TIB that since the matter is with the courts again, they will wait until the court decision before implementing the order. They also indicated that it is up to individual state PUC's to make their own decision whether or not to implement the FCC order or wait for the final decision of the courts.

What TIB is requesting from TRA?

TIB is requesting TRA to delay implantation of the FCC order until the District Court, Washington DC, gives a final ruling.

Another option for TRA is to direct that a small premium be added to the monthly UNE-P billing until the courts decide this matter. FCC has directed that such premium be \$1 per month. Some CLEC has suggested that the premium be 15% of the monthly billing.

Final Summary

Any decision made by TRA-PUC is of great importance.

A decision to allow ILEC to charge whatever they want, is detrimental to small CLEC like TIB and will force them to go out of business. It will reduce business competition and increase prices for consumers.

On the other hand TRA-PUC has the authority to direct both ILEC & CLEC to continue UNE-P rates at (1) the current contractual agreement, (2) at a \$1 premium per month as directed by the FCC order, or (3) set a small monthly premium (such as 15%) until a final decision is made by FCC & approved the

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Courts. This is a WIN WIN decision because it allows small CLEC to continue operating and ILEC still continue to receive revenue for their UNE-P lines.

Please do not hesitate to contact me if you have any question.

Sincerely Yours,

Kirti S. Bajwa

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